

REMARKS/ARGUMENTS

This is in response to the Office Action of October 20, 2005. The period for response has been extended by a period of one (1) month to February 20, 2006 by the enclosed Petition for Extension of Time.

Claims 1, 5 and 9 have been amended to include the limitation that the first and second contact surfaces are moveable with respect to each other.

In the previously mentioned office action claims 1-3, 5-7 and 9-12 were rejected under 35 U.S.C. 103(a) as being obvious over U.S. Publication 2004/0082998 to Shinomiya et al. in view of applicant's admitted prior art and in further view of WO 93/15682 to Small et al.

Claims 4, 8 and 13 were rejected under 35 U.S.C. 103(a) as being obvious over U.S. Publication 2004/0082998 to Shinomiya et al in view of applicant's prior art, in view of WO 93/15682 to Small et al., in view of EPO 0 441 537 to Bezwada et al. and in further view of U. S. Patent No. 4,547, 542 to Lundberg al.

The rejection of Claims 1-3, 5-7, 9-12 under 35 USC 103(a) as being obvious over U.S. Publication 2004/0082998 to Shinomiya et al. in view of Applicants' admitted prior art and in further view of WO 93/15682 to Small et al. is respectfully traversed.

Shinomiya discloses an artificial vertebrae device used basically for spinal fusion having members in static contact with each other. Shinomiya neither discloses nor suggests Applicants' claimed invention having first and second bioabsorbable contact surfaces with a bioabsorbable lubricant coating disposed in between, wherein the contact surfaces are moveable with respect to each other. Similarly, the combination of Shimomiya with Small neither discloses nor suggests Applicants' claimed invention, indeed, Shinomiya teaches away from Applicants' invention. Furthermore, the Examiner has pointed to no teaching suggesting the desirability of combining the references.

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The Applicants have amended claims 1, 5 and 9 to indicate that the contact surfaces are moveable with respect to each other.

Accordingly, the Examiner is respectfully requested to withdraw this rejection.

The rejection of claims 4, 8 and 13 under 35 USC 103(a) as being obvious over U.S. Publication 2004/0082998 to Shiomiya et al. in view of Applicants' admitted prior art in view of WO 93/15682 to Small et al. in view of EP 0 441 537 to Bezwada et al. and in further view of U.S. Patent No. 5,547,542 to Lundberg et al. is respectfully traversed.

For the reasons stated above, the combination of the references does not suggest nor disclose Applicants' claimed invention.

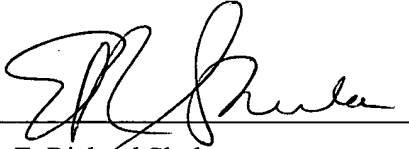
It is also respectfully submitted to the Examiner that Bezwada et al. and the present application are assigned to the same entity. The Bezwada et al. reference should be disqualified under 35 U.S.C. 103 (c) since the subject matter of the Bezwada et al. reference was commonly owned by Ethicon, Inc. at the time that the present invention was made. Accordingly, the Examiner is respectfully requested to withdraw this reference.

Accordingly, on the basis of the Examiner is respectfully requested to withdraw this rejection.

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Therefore, in view of the arguments and discussion hereinabove, the Examiner is respectfully requested to withdraw his rejections, make the amendments to the claims of record, and allow the claims.

Respectfully submitted,
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